

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 222

BY EDUCATION COMMITTEE

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-511, IDAHO CODE, TO PROVIDE THAT SELF-INSURED COUNTIES PROVIDING WORKER'S COMPENSATION INSURANCE FOR PERSONS PERFORMING COMMUNITY SERVICE ARE NOT REQUIRED TO REMIT A CERTAIN FEE TO THE STATE INSURANCE FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-520, IDAHO CODE, TO PROVIDE THAT SELF-INSURED COUNTIES PROVIDING WORKER'S COMPENSATION INSURANCE FOR PERSONS PERFORMING COMMUNITY SERVICE ARE NOT REQUIRED TO REMIT A CERTAIN FEE TO THE STATE INSURANCE FUND; AND AMENDING SECTION 31-3201C, IDAHO CODE, TO PROVIDE THAT SELF-INSURED COUNTIES PROVIDING WORKER'S COMPENSATION INSURANCE FOR PERSONS PERFORMING COMMUNITY SERVICE ARE NOT REQUIRED TO REMIT A CERTAIN FEE TO THE STATE INSURANCE FUND.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 20-511, Idaho Code, be, and the same is hereby amended to read as follows:

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a ~~community-based diversion~~ community-based diversion program for informal probation and counseling. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

(3) Information uniquely identifying the juvenile, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.

Such informal adjustment of the petition shall be conducted in the manner prescribed by the Idaho juvenile rules. When an informal adjustment is made pursuant to this section and the juvenile is to perform community service work, the court shall assess the juvenile a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is to perform. This fee shall be remitted by the court to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

SECTION 2. That Section 20-520, Idaho Code, be, and the same is hereby amended to read as follows:

20-520. SENTENCING. (1) Upon the entry of an order finding the juvenile is within the purview of the act, the court shall then hold a sentencing hearing in the manner prescribed by the Idaho juvenile rules to determine the sentence that will promote accountability, competency development and community protection. Prior to the entry of an order disposing of the case, other than an order of discharge or dismissal, the court may request and, if requested, shall receive a report containing the results of an inquiry into the home environment, past history, competency development, prevention or out of home placement services provided, and the social, physical and mental condition of the juvenile. The court shall not consider or review the report prior to the entry of an order of adjudication. Upon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile as follows:

(a) Place the juvenile on formal probation for a period not to exceed three (3) years from the date of the order, except the court may place a juvenile on formal probation for a period not to exceed the juvenile's twenty-first birthday if the court finds that the juvenile has committed a crime of a sexual nature;

(b) Sentence the juvenile to detention pursuant to this act for a period not to exceed thirty (30) days for each act, omission or status which is prohibited by the federal, state, local or municipal law or ordinance by reason of minority only. The sentence shall not be executed unless the act, omission or status is in violation of section 922(x) of title 18, United States Code, or the court finds that the juvenile has violated the court's decree imposing the sentence as provided below.

If the court, after notice and hearing, finds that a juvenile has violated the court's decree imposing the sentence under circumstances that bring the violation under the valid court order exception of the federal juvenile justice and delinquency prevention act of 1974, as amended, the court may commit the juvenile to detention for the period of detention previously imposed at sentencing;

(c) Commit the juvenile to a period of detention, pursuant to this act, for a period of time not to exceed ninety (90) days for each unlawful or criminal act the juvenile is found to have committed, if the unlawful or criminal act would be a misdemeanor if committed by an adult, or where the juvenile has been adjudicated as an habitual status offender;

1 (d) If the juvenile has committed an unlawful or criminal act which would be a felony if
2 committed by an adult, the court may commit the juvenile to detention for a period not to
3 exceed one hundred eighty (180) days for each unlawful or criminal act;

4 (e) Whenever a court commits a juvenile to a period of detention it shall notify the
5 school district where the detention facility is located. No juvenile who is found to come
6 within the purview of the act for the commission of a status offense shall be sentenced
7 to detention in a jail facility unless an adjudication has been made that the juvenile is an
8 habitual status offender;

9 (f) Commit the juvenile to detention and suspend the sentence on specific probationary
10 conditions;

11 (g) The court may suspend or restrict the juvenile's driving privileges for such periods
12 of time as the court deems necessary, and the court may take possession of the juvenile's
13 driver's license. The juvenile may request restricted driving privileges during a period
14 of suspension, which the court may allow if the juvenile shows by a preponderance of
15 evidence that driving privileges are necessary for his employment or for family health
16 needs;

17 (h) The court may order that the juvenile be examined or treated by a physician, surgeon,
18 psychiatrist or psychologist, or that he receive other special care, or that he submit to an
19 alcohol or drug evaluation, if needed, and for such purposes may place the juvenile in a
20 hospital or other suitable facility;

21 (i) The court may order that the department of health and welfare conduct a
22 comprehensive substance abuse assessment of the juvenile. After receiving the
23 comprehensive substance abuse assessment, and upon a finding by the court that treatment
24 will provide a cost-effective means of achieving the sentencing goals of accountability,
25 competency development and community protection, the court may order that the juvenile
26 receive immediate treatment for substance abuse in keeping with a plan of treatment
27 approved by the court. The initial cost of the assessment and treatment shall be borne
28 by the department of health and welfare. The director of the department of health and
29 welfare may promulgate rules consistent with this paragraph (i) to establish a schedule of
30 fees to be charged to parents by the department of health and welfare for such services
31 based upon the cost of the services and the ability of parents to pay;

32 (j) In support of an order under the provisions of this section, the court may make an
33 additional order setting forth reasonable conditions to be complied with by the parents,
34 the juvenile, his legal guardian or custodian, or any other person who has been made a
35 party to the proceedings, including, but not limited to, restrictions on visitation by the
36 parents or one (1) parent, restrictions on the juvenile's associates, occupation and other
37 activities, and requirements to be observed by the parents, guardian or custodian;

38 (k) The court may make any other reasonable order which is in the best interest of the
39 juvenile or is required for the protection of the public, except that no person under the age
40 of eighteen (18) years may be committed to jail, prison or a secure facility which does
41 not meet the standards set forth in section 20-518, Idaho Code, unless jurisdiction over
42 the individual is in the process of being waived or has been waived pursuant to section
43 20-508 or 20-509, Idaho Code. The court may combine several of the above-listed modes
44 of disposition where they are compatible;

1 (l) An order under the provisions of this section for probation or placement of a juvenile
2 with an individual or an agency may provide a schedule for review of the case by the
3 court;

4 (m) Order the proceeding expanded or altered to include consideration of the cause
5 pursuant to chapter 16, title 16, Idaho Code;

6 (n) Order the case and all documents and records connected therewith transferred to the
7 magistrate division of the district court for the county where the juvenile and/or parents
8 reside if different than the county where the juvenile was charged and found to have
9 committed the unlawful or criminal act, for the entry of a dispositional order;

10 (o) Order such other terms, conditions, care or treatment as appears to the court will best
11 serve the interests of the juvenile and the community;

12 (p) The court shall assess a twenty dollar (\$20.00) detention/probation training academy
13 fee against the juvenile for every petition filed where there has been an adjudication that
14 the juvenile is within the purview of this chapter. All moneys raised pursuant to this
15 paragraph shall be transmitted by the court for deposit in the juvenile corrections fund
16 which is created in section 20-542, Idaho Code;

17 (q) Additionally, the court shall assess a fee of sixty cents (60¢) per hour of community
18 service against the juvenile for every petition filed where there has been an adjudication
19 that the juvenile is within the purview of this chapter and the court is ordering community
20 service. Such fee is to be remitted by the court to the state insurance fund for purposes
21 of providing worker's compensation insurance for persons performing community service
22 pursuant to this chapter. However, if a county is self-insured and provides worker's
23 compensation insurance for persons performing community service pursuant to the
24 provisions of this chapter, then remittance to the state insurance fund is not required;

25 (r) Commit the juvenile to the legal custody of the department of juvenile corrections for
26 an indeterminate period of time not to exceed the juvenile's nineteenth birthday, unless
27 the custody review board determines that extended time in custody is necessary to address
28 competency development, accountability, and community protection; provided however,
29 that no juvenile shall remain in the custody of the department beyond the juvenile's
30 twenty-first birthday. The department shall adopt rules implementing the custody review
31 board and operations and procedures of such board;

32 (s) Notwithstanding any other provision of this section, a court may not commit a
33 juvenile offender under the age of ten (10) years to a period of detention or to the custody
34 of the department of juvenile corrections for placement in secure confinement.

35 (2) When an order is entered pursuant to this section, the juvenile shall be transported
36 to the facility or program so designated by the court or the department, as applicable, by the
37 sheriff of the county where the juvenile resides or is committed, or by an appointed agent.
38 When committing a juvenile to the department, or another entity, the court shall at once
39 forward to the department or entity a certified copy of the order of commitment.

40 (3) Unless the court determines that an order of restitution would be inappropriate or
41 undesirable, it shall order the juvenile or his parents or both to pay restitution to or make whole
42 any victim who suffers an economic loss as a result of the juvenile's conduct in accordance
43 with the standards and requirements of sections 19-5304 and 19-5305, Idaho Code. The
44 amount of restitution which may be ordered by the court shall not be subject to the limitations
45 of section 6-210, Idaho Code. Court-ordered restitution shall be paid prior to any other
46 court-ordered payments unless the court specifically orders otherwise.

1 (4) The court may order the juvenile's parents, legal guardian or custodian to pay the
2 charges imposed by community programs ordered by the court for the juvenile, or the juvenile's
3 parents, legal guardian or custodian.

4 (5) Any parent, legal guardian or custodian violating any order of the court entered
5 against the person under the provisions of this chapter shall be subject to contempt proceedings
6 under the provisions of chapter 6, title 7, Idaho Code.

7 SECTION 3. That Section 31-3201C, Idaho Code, be, and the same is hereby amended
8 to read as follows:

9 31-3201C. COMMUNITY SERVICE FEE. The court shall charge a fee of sixty cents
10 (60¢) per hour of community service to be remitted to the state insurance fund for purposes
11 of providing worker's compensation insurance for persons performing community service;
12 however, if a county is self-insured and provides worker's compensation insurance for persons
13 performing community service, then remittance to the state insurance fund is not required. This
14 per hour fee shall be paid by each person found guilty of any felony or misdemeanor and
15 community service is provided as part of the sanction or as a condition of a withheld judgment
16 or probation. The court may waive such fee if it determines the person is indigent and unable
17 to pay such fee. Such fees shall be in addition to all other fines and fees levied. Such fees
18 shall be paid to the district court and deposited in the county treasury for payment to the state
19 insurance fund.